

DIGITAL MEDIA PLATFORM LAUNCH PROGRAM AGREEMENT

This Digital Media Platform Launch Partner Program ("LPP Agreement") is made as of this ___ day of _____, 201__ ("Effective Date") by and between _____, ("Library"), and Midwest Tape, LLC ("Midwest Tape") (Library and Midwest Tape are, collectively, the "Parties"). In consideration of the promises and mutual covenants contained in this LPP Agreement, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **DEFINITIONS.** The following definitions apply wherever those terms appear in this LPP Agreement:
 - 1.1 **"Digital Content Titles"** means audiovisual works that Midwest Tape provides to Library under this LPP Agreement.
 - 1.2 **"Digital Media Applications (Apps)"** mean a mobile device and/or computer program maintained and owned by Midwest Tape used to provide Patrons access to browse, borrow, and/or return Digital Content Titles from, and/or access, the Digital Media Platform.
 - 1.3 **"Digital Media Platform"** means a computer program maintained and owned by Midwest Tape used to provide (i) the Digital Content Titles to Library, and (ii) various applications for Library to use to assemble and manage its collection of Digital Content Titles, and to facilitate, manage, and track its Patrons' use of the Digital Content Titles.
 - 1.4 **"Digital Media Library Website"** means a Midwest Tape hosted website to be used by Library to manage content available to Patrons in the Digital Media Platform, and administer Library policies with regards to the Digital Media Platform.
 - 1.5 **"Digital Media Patron Website"** means a Midwest Tape hosted website to be used by Patrons to browse and/or borrow Digital Content Titles from the Digital Media Platform.
 - 1.6 **"Distribution Partners"** means any third parties that provide services for Midwest Tape or enter into LPP Agreement with Midwest Tape, in connection with the Digital Media Platform.
 - 1.7 **"Confidential Information"** is defined in Section 11, below.
 - 1.8 **"Intellectual Property Rights"** means all rights in and to patents, trademarks, service marks, trade names, copyrights, trade secrets, technology, software, designs, algorithms, know-how, as well as moral rights and all other intellectual and proprietary rights of any type under the laws of any governmental authority.

- 1.9 **“Library Website”** means a website owned and maintained by Library.
- 1.10 **“Marks”** means any trademarks, service marks, trade names, logos, designs, icons, characters, cover art, styles, and trade dress associated with any Digital Content Titles, including without limitation all translations or transliterations of the foregoing in any language, or any colorable imitations or modified versions thereof.
- 1.11 **“Metadata”** means, with respect to each Digital Content Title (i) the title; (ii) producers and/or studios; (iii) the suggested retail price for a Digital Content Title as determined by the relevant Vendor; (iv) if commercially used, the digital object identifiers for each Digital Content Title; (v) geographical rights restrictions, if any; (vi) short descriptions; (vii) cover art and image, graphics, and other images from the Digital Content Titles; (viii) discount class of each Digital Content Title; and (ix) any such other information provided by Vendors or Midwest Tape.
- 1.12 **“Vendor”** means a supplier to Midwest Tape of (i) Digital Content Title(s) or (ii) any technology or service necessary for Midwest Tape to provide the Digital Content Title(s) to Library via the Digital Media Platform.
- 1.13 **“Patron”** means a person who is authorized by Library to access, use, and connect to the Digital Media Platform to borrow Digital Content Titles.
- 1.14 **“Per Circulation Program”** is defined in Section 6.2 below
- 1.15 **“Promotional Postings”** means, with respect to each Digital Content Title, the cover or associated imagery or artwork, the copyright notice, and a description of the Digital Content Title.
- 1.16 **“Territory”** means the world (subject to any limitations set forth in the Metadata with respect to particular Digital Content Titles).
- 1.17 **“Primary Support”** is defined in Section 5.7 below.
- 1.18 **“Secondary Support”** is defined in Section 4.5.1 below.

2. DISTRIBUTION

- 2.1 **Grant of Rights.** Midwest Tape grants Library the following non-exclusive and non-transferrable rights:
 - 2.1.1 Library has the right to market, display, and use the Digital Media Platform as provided herein;
 - 2.1.2. Library has the right to allow Patrons to access and view Digital Content Titles through the Digital Media Patron Website and/or Digital Media Applications;

- 2.1.3 Library has the right to use the Metadata, Marks, and Promotional Postings to promote the Digital Media Platform, Digital Media Applications, and Digital Media Patron Website, including but not limited to postings on social media websites such as Facebook and Twitter;
 - 2.1.4 Library has the right to customize portions of the Digital Media Platform as reasonably necessary to conform the Digital Media Platform to the Library's own operations provided, however, that Midwest Tape shall have the right to reject any customizations that Midwest Tape determines, in its sole discretion, would breach this LPP Agreement or violate any Intellectual Property Rights; and
 - 2.1.5 Library has the right to use the Digital Content Titles, Metadata, Marks and Promotional Postings through the Digital Media Platform to develop Library-customized collections for its Patrons.
- 2.2 **Limitations.** The Library has no rights to the Digital Content Titles, Digital Media Platform, Digital Media Library Website, Digital Media Patron Website, Digital Media Applications, Marks, Metadata, or Promotional Postings other than those rights expressly provided in this LPP Agreement. For example:
- 2.2.1 Library has no ownership rights to the Digital Content Titles, the Digital Media Platform, Digital Media Library Website, Digital Media Patron Website, Digital Media Applications, Marks, Metadata, Promotional Postings, artwork, or other materials delivered by Midwest Tape to Library hereunder.
 - 2.2.2 Library has no right to use or access any Digital Media Platform source code;
 - 2.2.3 Library has no right to reproduce the Digital Media Platform;
 - 2.2.4 Library has no right to make, sell, or distribute variations or derivative works of the Digital Media Platform; and
 - 2.2.5 Library has no public performance rights in the Digital Content Titles. The Library may not offer any Digital Content Titles as a performance in order to entice Patrons, or the general public, to come to an event, sponsored by Library or otherwise, in order to view any Digital Content Title.
 - 2.2.6 Library agrees to the Support of Intellectual Property Protection. Therefore, the Library is explicitly prohibited from:
 - (i) engaging in activities that infringe intellectual property rights. For example, the unauthorized P2P file-sharing, posting, streaming, making uploading, downloading or other distribution of content protected by Intellectual property; and/or

- (ii) the intentional facilitating of such activities through Customers' hosted websites and services (including, but not limited to, the operation of eDonkey directory servers, BitTorrent hackers and/or websites which index and link to content served at a separate host).

2.3 **Ownership.**

2.3.1 **Ownership Rights of Vendor.** Subject to the provisions of this Agreement, Vendors retain all Intellectual Property Rights in and to the Digital Content Titles, Metadata, Marks, and Promotional Postings, artwork or other materials delivered by Midwest Tape to Library hereunder.

2.3.2 **Ownership Rights of Midwest Tape.** Midwest Tape owns and retains all Intellectual Property Rights in and to the Digital Media Platform, the Digital Media Library Website, the Digital Media Patron Website, and the Digital Media Applications and all modifications, updates, or improvements made thereto. Library acknowledges Midwest Tape's ownership of such Intellectual Property Rights.

3. **MIDWEST TAPE'S RIGHT TO MODIFY THE DIGITAL MEDIA PLATFORM**

3.1 **Modifications to Digital Media Platform.** Midwest Tape has the right to modify, at any time, the Digital Media Platform, the Digital Media Patron Website, the Digital Media Applications, or Digital Media Library Website (i) as needed to optimize their respective operation, performance, or functionality; or (ii) as required by Vendors.

3.1.1 **Library's Right.** If any modification made by Midwest Tape pursuant to Section 3.1 materially impairs the value of this LPP Agreement to Library, Library may terminate this Agreement.

3.2 **Modifications to Digital Content Titles.** Midwest Tape has the right to take the following actions with respect to any Digital Content Title at any time and for any reason: (i) set or adjust the applicable Per Circulation Fee; (ii) replace the files associated with each Digital Content Title and (iii) edit or modify editorial content and design.

3.2.1 Significant modifications to content and platform functionality will be made available and provided to the library.

3.2.2 **Library's Right.** If any modification made by Midwest Tape pursuant to Section 3.2 materially impairs the value of this LPP Agreement to Library, Library may terminate this Agreement.

3.3 **Addition and Removal of Digital Content Titles.** Midwest Tape will continually update the Digital Media Platform with additional Digital Content Titles. Midwest

Tape has the right to remove any Digital Content Title from the Digital Media Platform at any time and for any reason, including but not limited to the following:

- 3.3.1 Upon notice that Vendor's rights with respect to any Digital Content Title have expired, are terminated, or are subject to dispute for any reason; or
- 3.3.2 Upon notice that a Vendor has determined that any portion of the Digital Content Titles, Metadata, Marks or Promotional Postings in Midwest Tape's possession or control contains errors; or
- 3.3.3. Upon notice that a Vendor has determined that any portion of the Digital Content Titles, Metadata, Marks, or Promotional Postings are subject to, or may be subject to, a third-party claim.

4. MIDWEST TAPE OBLIGATIONS.

- 4.1 **Digital Media Platform, Websites and Applications.** Midwest Tape will do the following:

- 4.1.1 Midwest Tape will host and support the Digital Media Platform for the term of this LPP Agreement and any successor Agreements in accordance with the specifications listed in the Appendix D and in this LPP Agreement.;
- 4.1.2 Midwest Tape will host and provide access to the Digital Media Application;
- 4.1.3 Midwest Tape will provide the Digital Media Library Website in accordance with the specifications listed in the Appendix D and in this LPP Agreement;
- 4.1.4 Midwest Tape will provide the Digital Media Patron Website, including integration of Library's name, image/logos, and website links, as defined by Library; and
- 4.1.5 Midwest Tape will use reasonable efforts to ensure that the Digital Media Platform, the Digital Media Library Website, the Digital Media Patron Website, and Digital Media Application perform substantially in accordance with this LPP Agreement. Library acknowledges that inevitably some errors may exist in the Digital Media Platform, the Digital Media Library Website, the Digital Media Patron Website, or Digital Media Application, and the presence of such errors is not a breach of this provision. Midwest Tape's sole obligation with regard to such errors is to undertake commercially reasonable efforts to correct such errors and provide Secondary Support, as defined by Section 4.5.1 below, Monday – Friday, except holidays, between 9AM – 6PM Eastern.

- 4.2 **Metadata.** Midwest Tape may, in the future, provide Metadata to Library in the format supplied to Midwest Tape by the Vendors.

- 4.3 **Storage.** Midwest Tape will digitally store the Digital Content Titles and make them available to Library through the Digital Media Platform.
- 4.4 **Hyperlinks.** Midwest Tape will create the appropriate download links from the Library Website for the secure delivery of Digital Content Titles to Patrons.
- 4.5 **Support.**
 - 4.5.1 **Secondary Support.** Midwest Tape will supply the following technical support services to the Library: (i) reasonable efforts to identify, correct, and/or circumvent errors in the Digital Media Platform, the Digital Media Applications, the Digital Content Titles, the Digital Media Library Website, and the Digital Media Patron Website; and (ii) supply updates, enhancements, and new versions of the Digital Media Platform, the Digital Media Applications, the Digital Content Titles, the Digital Media Library Website, and the Digital Media Patron Website as they become available (the "Secondary Support").
 - 4.5.2 **Additional Support Services.** In addition to the Secondary Support, Midwest Tape may undertake reasonable efforts to assist Library with its obligation to provide Primary Support (as defined in Section 5.7 below) by providing Library with answers to "frequently asked questions" related to the Digital Media Platform, the Digital Content Titles, the Digital Media Library Website, the Digital Media Patron Website, and Digital Media Applications. Additional information on Support Services is also located in the Library User's Guide referenced in Appendix A.

5. LIBRARY OBLIGATIONS

- 5.1 **General Obligation.** Library must ensure that it utilizes the Digital Media Platform, the Digital Media Library Website, the Digital Media Patron Website, the Digital Media Applications, and the Library Website in compliance with the terms of this LPP Agreement and all Schedules.
- 5.2. **Testing Period Obligations.** By signing this LPP Agreement, Library agrees that the first sixty (60) days of the Initial Term (as defined in Section 7.1) shall be a Testing Period for the Digital Media Platform. Library acknowledges that the Testing Period may include some amount of trial and error as Midwest Tape implements the Digital Media Platform and related services. Library agrees that during the Testing Period, it will work in a collaborative fashion with Midwest Tape regarding any problems that the parties may encounter. Library further agrees that it will offer constructive and ongoing feedback to Midwest Tape regarding the Digital Media Platform and related services during the Testing Period. Library acknowledges that, during the Testing Period, the catalog of available Digital Content Titles will not be as extensive as it may otherwise be during the remainder of the Initial Term and any subsequent Renewal Term.

- 5.3. **Obligation to Learn the System.** Library must be able to independently and correctly operate all of the systems and functions that are available to Library and/or Patrons through the Digital Media Platform, Digital Media Library Website, the Digital Media Applications, and Digital Media Patron Website. Library must ensure that it employs or otherwise hires personnel who are appropriately experienced with modern technology and computer systems, or who have been adequately trained in such areas, to: (i) work with the Digital Media Platform, the Digital Media Patron Website, the Digital Media Applications, and the Digital Media Library Website on Library's behalf, (ii) adequately train and/or assist other Library employees in these systems, and (iii) train and/or assist Patrons regarding these systems, including but not limited providing Primary Support to Patrons as defined in Section 5.7 below.
- 5.4 **Network Connectivity.** Library must provide a suitable network and Internet system for ILS integration of the Digital Media Platform, the Digital Media Library Website, and the Digital Media Patron Website into the Library Website or other systems.
- 5.5 **Expenses and Maintenance.**
- 5.5.1 Library is responsible for all of its own expenses and costs related to its performance under this LPP Agreement. Midwest Tape has no obligation to reimburse Library for any expenses or costs incurred by Library related to this LPP Agreement or to the performance of Library's obligations under this LPP Agreement, including but not limited to any such expenses and costs incurred in the preparation, systems integration, or use of the Digital Media Platform, the Digital Media Library Website, the Digital Media Applications, or the Digital Media Patron Website.
- 5.5.2 Library will perform requested linkage between the Digital Media Platform and the Library Website and reasonable technical services of the Digital Media Platform pursuant to the support procedures and policies developed by Midwest Tape and as modified from time-to-time.
- 5.5.3 Library will notify Midwest Tape 72 hours (3 business days), or as reasonably available, before any change in any RSS links, ILS configuration (which may affect patron authentication), URL updates or changes and/or any other technology modifications that could impact the Digital Media Website from operating properly.
- 5.6 **Management of Digital Media Library Website.** Library agrees, it alone has sole responsibility for managing and utilizing the Digital Media Library Website, including but not limited to the following features: content management, reporting, circulation, and budgeting.
- 5.7 **Library Website.** Library is solely responsible for all aspects of catalog integration, operation, training, support and/or maintenance necessary for the operation of the Library Website. This may include requiring the expense of

obtaining a SIP(Session Initiation Protocol), SIP2 or other similar protocol software licenses from a third party vendor to support direct integration of the Digital Media Platform with the Library's Integrated Library System (ILS) as well as the cost for customized MARC (Machine Readable Cataloging) records it may obtain from a third party supplier such as OCLC (Online Computer Library Center). Library shall keep its Digital Media Platform Account information (Attachment C) current and alert Midwest Tape of any changes in its operation of the Library Website, including but not limited to changes of personnel, within 3 days of any such change.

- 5.8 **Primary Support.** Library is solely responsible for providing its Patrons with any and all support, technical aid, help and/or other assistance for Patron's use of the Library Website, the Digital Media Applications, the Digital Media Platform, the Digital Media Patron Website, and the Digital Content Titles (the "Primary Support").

For avoidance of doubt, Midwest Tape has no obligation to provide Primary Support to Patrons. Midwest Tape's sole involvement with respect to Primary Support for Patrons is limited to that provided by Midwest Tape, in its sole discretion, pursuant to Section 4.5.2.

- 5.9 **Promotion of Digital Media Platform.** Library agrees to take all reasonable steps to promote and market the Digital Media Platform to its Patrons and the public similar to marketing efforts of other digital platforms. Library expressly warrants that during the Testing Period, it will take all reasonable steps to ensure that all marketing and promotional material, and the Digital Media Application itself, clearly indicates that the Digital Media Platform is being offered in BETA VERSION ONLY, is still in testing mode, and does not yet contain a full catalog of offerings. Subject to this express condition on marketing activities during the Testing Period, Library understands the uniqueness of this platform and that continued marketing is required to promote usage.

- 5.9.1 Library will be provided digital banners referencing, and/or prominent links to, the Digital Media Platform and/or Digital Media Patron Website on the homepage of the Library Website;
- 5.9.2 Library will take all reasonable steps to inform patrons for which Library has an e-mail address, with patron permission via e-mail, using a Midwest Tape template or one of their own;. The e-mail is to be used for the purposes of promotion and marketing announcements, which include, but not limited to, the Digital Media Patron Website, Digital Media Applications, updates to the application and content provided;
- 5.9.3 Library will be provided co-branded hardcopy materials to share with Patrons regarding the Digital Media Platform, Digital Media Applications, and/or Digital Media Patron Website to be supplied at no cost to the library by Midwest Tape

5.9.4 Library will be provided posters, banners and other content to display within each Library branch as space allows.

5.10 **Compliance.**

5.10.1 **Use of Marks.** Library agrees to comply with any requirements communicated by Midwest Tape with respect to the use of Midwest Tape's and Vendor's Marks. Library agrees that the Marks may only be used in connection with the Digital Media Platform, the Digital Media Applications, Digital Content Titles, Digital Media Patron Website, and the promotional and marketing materials relating thereto.

5.10.2 **No Warranties or Representations by Library.** Library represents and agrees that it has not and will not make any representations or create any warranties, expressed or implied, to anyone concerning the Digital Media Platform, the Digital Media Applications, the Digital Media Library Website, the Digital Media Patron Website, or the Digital Content Titles.

5.10.3 **Compliance by Employees and Agents.** Library will ensure that its employees, agents, and others under its direction, abide by the terms and conditions of Section 5.10.2 and all other parts of this LPP Agreement.

5.10.4 **Compliance with Applicable Laws and Regulations.** Library will comply with all applicable laws, ordinances, rules and regulations, at its own expense, that may be required in any jurisdiction or by any administrative agency in connection with the use and/or operations of the Digital Media Platform, the Digital Media Applications, the Digital Media Library Website, the Digital Media Patron Website, or the Digital Content Titles.

6. **FEES, PAYMENTS & REPORTING**

6.1 **Advance Payment Waived.** In consideration of Library's LPP Agreement to participate in a sixty (60) day Testing Period under the terms and conditions specified in Sections 5.2 and 5.9 above, Midwest Tape agrees that the advance payment otherwise due under Appendix G is hereby waived. Library is, however, still responsible for the payment of any fees incurred during the Testing Period as provided in Section 6.2 and Appendix B.

6.2 **Per Circulation Program.** Midwest Tape will invoice Library under this LPP Agreement on a per-circulation basis. A "circulation" occurs when the Library loans a Digital Content Title to a Patron for a specific period of time that is terminated either (i) upon expiration of the lending period, whether or not the Digital Content Title has been accessed and/or viewed by Patron, or (ii) when the Patron returns the Digital Content Title before the end of the lending period. The library has unlimited circulation capabilities per licensed copy of a Digital Content Title which then may be provided to unlimited number of Patrons under this LPP Agreement, but access to may be limited to one (1) borrowed copy per patron.

6.3 **Timing of Invoices and Payment.**

6.3.1 Midwest Tape will invoice Library on a weekly basis and be based on the number of circulations of Digital Content Titles during the invoice period, in the form attached as Appendix E, and according to the Per Circulation Fee Schedule attached as Appendix B.

6.3.2 The Library will pay Midwest Tape within forty-five (45) days following the receipt of each correct invoice.

6.4 **Reporting.** Through the Digital Media Library Website, Library will have access to reports of circulation activity for the Digital Content Titles loaned by Library.

6.5 **Taxes.** Library is required to provide a sales tax exemption certificate, if applicable, to Midwest Tape as part of the on boarding process. If the library is not exempt, Midwest Tape will add, and collect, sales taxes to any purchases made pursuant to this LPP Agreement.

7. **TERM AND TERMINATION**

7.1 **Initial Term.** Except as otherwise provided herein, the initial term ("Initial Term") of this LPP Agreement begins on the Effective Date and continues for a period of 24 months thereafter.

7.1.1 **Testing Period.** The first sixty (60) days of the Initial Term of this LPP Agreement will be the Testing Period subject to the additional terms and conditions of Sections 5.2, 5.9, 6.1, and 6.3, above.

7.2 **Renewal Term.** Upon expiration of the Initial Term, this LPP Agreement will automatically renew for successive renewal periods of 12 months, not to exceed eight (8) years or until this LPP Agreement is terminated in accordance with the provisions hereof (each a "Renewal Period").

7.3 **Termination.** The Parties may cancel this LPP Agreement as follows:

7.3.1 **By Notice.** Either Party may terminate this LPP Agreement by providing the other Party with sixty (60) days written notice prior to (i) the end of the Initial Term or (ii) the end of the then-current Renewal Term.

7.3.2 **Due to Breach.** Either Party may suspend its performance or, at that Party's sole option, terminate this LPP Agreement, by providing the other Party with ten (10) days written notice in the event of

- (i) the other Party's material breach of this LPP Agreement, which breach continues uncured for a period of thirty (30) days; or
- (ii) Library's failure to perform its payment obligations under Section 6 of this LPP Agreement for a period of ten (10) days.

7.3.3 **At Library's Option.** Library may terminate this LPP Agreement pursuant to its rights in Section 3.1.1 or Section 3.2.2 above.

7.4 **Effect of Termination.** Upon termination of this LPP Agreement, Library must immediately cease distribution and use of the (i) Digital Media Platform; (ii) Digital Content Titles; and (iii) the Marks, and pay Midwest Tape any fees accrued and owing under the Per Circulation Program.

8. REPRESENTATIONS AND WARRANTIES.

8.1 **By Library.** Library represents and warrants that:

8.1.1 Library has the full, right, power and authority to enter into this LPP Agreement; and

8.1.2 Library will comply with all laws and regulations applicable to the performance of its obligations under this LPP Agreement.

8.2 **By Midwest Tape.** Midwest Tape represents and warrants that:

8.2.1 Midwest Tape has the full right, power and authority to enter into this LPP Agreement;

8.2.2 all software and other Intellectual Property Rights necessary to deliver the Digital Content Titles are owned or licensed by Midwest Tape or its Vendors; and

8.2.3 Midwest Tape will comply with all laws and regulations applicable to the performance of its obligations under this LPP Agreement.

9. INDEMNIFICATION.

9.1 **Indemnities.** Each Party ("Indemnifying Party") agrees to defend, indemnify, and hold harmless the other Party from and against any and all third-party claims, demands, suits, legal proceedings, and causes of action that arise out of or relate to any breach by the Indemnifying Party of any of its Representations and Warranties as stated in Section 8 of this LPP Agreement (collectively, "Claims"), including but not limited to all damages, costs, expenses, reasonable attorneys' fees, judgments, and settlements resulting from such Claims provided, however, that no Claim may be settled without the express written consent of the Indemnifying Party.

9.2 **Indemnity Process.** The Party seeking indemnification must provide prompt written notice to the Indemnifying Party of any Claim to which indemnity obligations apply. The Indemnifying Party has the right, but not the duty, to control the defense and settlement of any Claims with counsel of its choosing. The Party seeking indemnification will cooperate with the Indemnifying Party's defense against the Claims. If any Claim is covered in part but not entirely by a Party's indemnification obligation hereunder, the Indemnifying Party will only be

responsible for costs to the extent attributable to the covered portion of the Claims.

10. **DISCLAIMER AND LIMITATION ON LIABILITY.**

10.1 **DISCLAIMER OF WARRANTIES.** EXCEPT AS EXPRESSLY PROVIDED IN THIS LPP AGREEMENT, MIDWEST TAPE MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDING ANY GOOD OR SERVICE THAT MAY BE PROVIDED BY MIDWEST TAPE UNDER THIS LPP AGREEMENT.

10.2 **LIMITATION OF LIABILITY.** EXCEPT AS EXPRESSLY PROVIDED IN THIS LPP AGREEMENT, IN NO EVENT, AND REGARDLESS OF THE CAUSE OF ACTION, WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOST BUSINESS OPPORTUNITY, EVEN IF SUCH DAMAGES ARE FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREON.

11. **CONFIDENTIALITY.**

11.1 **Confidential Information.** "Confidential Information" means any oral, written, graphic or machine-readable information of either Party that is disclosed to the other Party under this LPP Agreement either directly or indirectly, in writing, orally, electronically, or by inspection of tangible objects, and that is designated in writing as "Confidential" at the time of disclosure or within five (5) days thereafter. Confidential Information may include information disclosed to any Party by a third-party on behalf of the other Party and designated as Confidential Information. Confidential information includes, without limitation, business plans, customer information (inclusive of Library Patron information), pricing, contract terms, available content and sales, marketing and/or finances of the disclosing Party.

11.2 **Parties' Obligations.** Confidential Information is the property of the disclosing Party (inclusive of Library Patron information) and the receiving Party will not be deemed by virtue of its access to Confidential Information to have acquired any right or interest in or to any such Confidential Information. Each Party further agrees:

11.2.1 to hold the Confidential Information of the other Party in confidence by using the same degree of care to safeguard such Confidential Information as it uses to protect its own information of like character, but in no event less than a reasonable degree of care;

11.2.2 to limit disclosure of the Confidential Information of the other Party to its employees having a need to know the Confidential Information for the purposes of this LPP Agreement;

1123 not to disclose any Confidential Information to any third party; and

1124 to use the Confidential Information solely and exclusively in accordance with the terms of this LPP Agreement.

11.3 **Exclusions.** This Section 11 does not affect either Party's right to use or disclose information that is not Confidential Information, including information that:

11.3.1 is or may hereafter be in the public domain;

11.3.2 the receiving Party can show was known to it without any confidentiality obligation prior to the disclosure by the disclosing Party;

11.3.3 is disclosed to the receiving Party by a third party, without violation of any confidentiality obligation, subsequent to disclosure by the disclosing Party;

11.3.4 is independently developed by the receiving Party without access to or use of the Confidential Information of the disclosing Party; or

11.3.5 is required to be disclosed pursuant to governmental or judicial process, provided that notice of such process is promptly provided to the disclosing Party in order that it may have every opportunity to intercede in such process to contest such disclosure or seek an appropriate protective order.

12. MISCELLANEOUS PROVISIONS.

12.1 **Further Action Necessary.** The Parties agree to execute such documents, instruments and Agreements, and take such other actions as may be reasonably necessary or desirable to carry out the provisions of this Agreement.

12.2 **Assignment.** Except as provided herein, neither Party may, by operation of law or otherwise, assign, sublicense, or otherwise transfer any of its rights or obligations under this LPP Agreement without the prior written consent of the other Party, which may not be unreasonably withheld or delayed. Either Party may assign, transfer, or otherwise delegate any or all of its rights and obligations under this LPP Agreement to any successor carrying on that part of the business to which this LPP Agreement relates or to any purchaser of all or substantially all of the assets or stock of such Party. Each Party may appoint contractors to perform part of its obligations hereunder, provided that the Party remains fully responsible for such contractor's performance. This LPP Agreement binds, benefits, and is enforceable by and against both Parties and their respective successors and permitted assigns.

12.3 **Notices.** Notices required by this LPP Agreement must be sent by United States mail, as well as by electronic mail (or by facsimile), directed as follows:

Midwest Tape:
Attn: Digital
info@midwesttapes.com
1 (800) 875-2785
Fax: (419) 868-9749

Library:

- 12.4 **No Waiver.** The failure by a Party to exercise any right hereunder, or object to any breach of this LPP Agreement by the other Party, does not operate as a waiver of such Party's right to exercise such right, or object to such breach, in the future.
- 12.5 **Amendment.** No amendment, modification, addendum, or revision to this LPP Agreement is valid unless it is in writing and signed by all Parties to this LPP Agreement, in which event there need be no separate consideration thereof.
- 12.6 **Severability.** To the extent a provision of this LPP Agreement is deemed by a court to be null and void, the LPP Agreement nonetheless remains in full force and effect with respect to each of the other provisions therein, except to the extent that the Distribution provisions of this LPP Agreement (i.e., Section 2 and its subsections) are declared null and void by a court, in which case the LPP Agreement is voidable by any Party.
- 12.7 **Survival.** Sections 2.2 and its subsections, 2.3 and its subsections, 5.9 its subsections, 9, 10, 11, 12.2, 12.3, 12.4, 12.7, and 12.9 survive any expiration or termination of this LPP Agreement.
- 12.8 **Governing Law.** This LPP Agreement and its subject matter is governed by Ohio law without regard to Ohio's choice-of-law rules, and the courts of Lucas County, Ohio shall have exclusive jurisdiction over any dispute that may arise out of or relate to this LPP Agreement.
- 12.9 **Captions and Headings.** Titles or headings contained in this LPP Agreement are included only for ease of reference and have no substantive effect.
- 12.10 **Arms-Length Negotiations.** This LPP Agreement was negotiated among the Parties at arm's length with each Party receiving advice from independent legal counsel, and has been executed and delivered in good faith. It is the intent of the Parties that no part of this LPP Agreement should be construed against any Party because of the identity of the drafter.
- 12.11 **Counterparts.** This LPP Agreement may be executed in counterparts, each of which taken together constitutes one single LPP Agreement between the Parties.
- 12.12 **Entire Agreement.** This LPP Agreement is an integrated LPP Agreement containing the entire understanding between the Parties regarding the subject matter of this LPP Agreement, and, except as set forth in this LPP Agreement, no representations, warranties or promises have been made or relied upon by the Parties. This LPP Agreement prevails over all prior communications or

agreements between the Parties or their representatives regarding the subject matter hereof.

- 12.13 **Force Majeure.** No Party may be considered in default or to have incurred any liability hereunder due to any failure to perform this LPP Agreement should such failure arise out of causes beyond its reasonable control, including, without limitation, work stoppages, fires, riots, accidents, floods, storms, unavailability of utilities or fuel, Internet or other communication failures, or other similar failures or occurrences. The time for performance will be extended for a period equal to the duration of the conditions preventing performance.



IN WITNESS WHEREOF, the Parties hereto have caused this LPP Agreement to be executed by their duly authorized representatives as of the Effective Date first written above.

ACCEPTED AND AGREED

Library: _____

By: _____

Print Name: _____

Title: _____

Date Signed: _____

ACCEPTED AND AGREED

MIDWEST TAPE, LLC

By: _____

Date Signed: _____

APPROVED AS TO FORM:

John Krattli

County Counsel

BY _____

Jill M. Jones

Date

Deputy County Counsel

Appendix A

Library On-Boarding Process

Midwest Tape sends Library an on-boarding email with:

- a. On-boarding process outline
- b. Links to Library Portal with:
 - i. Library user name and temporary password
 - ii. Video/demo of how to use Library portal
- c. Digital and printable co-branded materials
- d. Midwest Tape contact and escalation details
- e. Information needed by Midwest Tape and where/whom Library needs to send the information
 - i. Library logos, images
 - ii. Link to RSS feed, if any
- f. Email templates, library can use for notifying patrons about the new service, special announcements and library developed and/or seasonal collections
- g. Library User's Guide

Appendix B

Fees

Fees:

Fee for Per Circulation Program: For each Digital Content Title covered by the Per Circulation Program, Midwest Tape shall Invoice Library the following amount (all figures are in U.S.\$) each time such Digital Content Title is circulated:

See www.xxxxxxx.com or **Consult your Library Portal for the most up-to-date Per Circulation price list as this may be subject to change.**

hoopla Per Circulation Pricing				
	\$0.99	\$1.49	\$1.99	\$2.99
Videos	✓	✓	✓	✓
Audiobooks	✓	n/a	✓	✓
Music (Full-length Albums)	n/a	✓	✓	n/a

Appendix C

Library Digital Media Contacts & Info

This **Library Confirmation Sheet** is used to ensure correct information is entered into our database. To begin the set up process, please provide the below information:

Library Name & Billing Address

Shipping Address (if different)

_____	_____
_____	_____
_____	_____

Phone: _____

Fax: _____

Website: www. _____

CONTACT INFORMATION

Project Manager: _____

Phone: _____

Email: _____

Technical: _____

Phone: _____

Email: _____

Marketing: _____

Phone: _____

Email: _____

Social Networking/Communications: _____

Phone: _____

Email: _____

Accounts Payable: _____

Phone: _____

Email: _____

ADDITIONAL INFORMATION

To begin the set up process, please submit the following information to
librarybranding@hoopladigital.com

- ✓ ILS (Integrated Library System) Integration Instruction for patron authentication
- ✓ Dimensions for Horizontal and Vertical Advertisement space on your library website
- ✓ A Valid library card number and pin for testing and troubleshooting
- ✓ RSS (Rich Site Summary) link to Library news and events
- ✓ Library logo to be used on co-branded Marketing Material as well as Library News tab
- ✓ Library Image to be used on the Library News tab
(needed in both of the following formats)

For Mobile Phones:

Prefer: 640 pixels wide x 320 pixels tall

Acceptable: 320 pixels wide x 160 pixels tall

For Tablets & Website:

Prefer: 2048 pixels wide x 864 pixels tall

Acceptable: 1024 pixels wide x 432 pixels tall

FOR TABLETS ONLY - Tablets can be in either portrait or landscape orientation, but we use the same image. So the image gets the left and right side cropped when in portrait mode. **Therefore, the important parts of the logo - especially text - must be in the center 768 pixels of the image.**

Assigned Account Number: _____ (to be completed by Midwest Tape)

Appendix D

Digital Media Platform Specifications

Specifications subject to change without notice:

Midwest Tape's Digital Media Platform, hoopla, enables libraries to offer their patrons the ability to access video, music and audiobook content digitally from either their mobile devices such as smartphones and tablets and/or via any browser.

Initially, hoopla will offer video, music and audiobook content. Other types of content may be added at any time. Libraries will be notified of all new content types and, as with existing types of content, will have the ability to offer or not offer each type of content. Patrons will have access to all content made available by their library at all times and will be able to borrow content based on settings established by the library system of which they are a member.

Midwest Tape will provide each library with access to their own library portal where they are able to see some of the newest additions, featured content and the most popular titles in the hoopla platform, as well as, catch up on the latest news regarding the platform, set their lending policies and budgets, view and/or download reports and invoice copies, support templates/documents.

At launch, hoopla will enable access via iPad 2+, iPhones, iPod Touch, (iOS6 devices); in addition, hoopla services can be accessed via any web browser which supports the Google's Widevine (DRM – digital rights management) plug-in. Widevine will be required to be installed. Hoopla support for Android 4.0+ devices is currently under development and expected to be available midyear.

MIDWEST TAPE TERMS AND CONDITIONS

Terms and Conditions for Use

Midwest Tape, LLC and its affiliates ("hoopla") provides digital content, software applications, technology services and hosted websites for third parties. The Terms and Conditions for Use include all updates, supplements, additional terms, software licenses, promotional offers, and all of hoopla rules and policies (collectively referred to as "Terms"). The Terms apply to all hoopla hosted websites, applications, software, technologies and services (collectively referred to as "Services").

By installing, copying, or otherwise using the Digital Media Platform's (DMP's) website, mobile applications (apps) or its software, you acknowledge that you have read and understood this Agreement, and agree to be bound by its Terms, and our Privacy Policy, which expressly incorporated herein by reference and made a part of these Terms. If you do not agree to (or cannot comply with) the terms and conditions of this Agreement, do not install, copy, or use the DMP's apps, software or any music, images, video, text, or other material available through the DMP("Content").

Midwest Tape evaluates ongoing our Terms against new technologies, business practices, and our users' needs, and may make changes to the Terms accordingly. Please check this page periodically for updates. Your continued use of the Service after posting of any changes to these Terms means that you agree to be bound by such changes.

Copyright, Trademark and Intellectual Property

The laws of copyright protect the Content that is made available through the Software and associated Services. All of the Content (the "Digital Content Titles") made available through this website and any related application (the "Digital Media Platform") are protected by intellectual property rights, including copyright, trademarks, trade secrets, and/or patent rights (collectively, "Intellectual Property Rights") of third parties.

You must be an authorized library patron to access, use, and connect to the Digital Media Platform to borrow and view the Digital Content Titles. As an authorized library patron, you may borrow and view the Digital Content Titles during the designated loan period for your own, personal, non-commercial use only ("Allowed Use"), after which period the borrowed content will expire.

The DMP and any related apps grants you a non-assignable, non-transferable, limited license to use the digital content provided by hoopla's suppliers ("Content") which may enable you to obtain, listen to, view, and/or read (as the case may be) Content that may be obtained by you in digital form, and you shall do so solely for your personal, noncommercial entertainment use. This Content is owned by Midwest tape LLC and other third parties. However, in all circumstances, you understand and acknowledge that your rights with respect to Content will be limited by copyright law. You agree that you will not attempt to modify any apps, software or Content obtained through the Service for any reason whatsoever, including for the purpose of disguising or changing any indications of the ownership or source of the Content.

You represent, warrant and agree that you are using the DMP hereunder for your own personal, noncommercial entertainment use and not for redistribution or transfer of any kind. You agree not to redistribute, broadcast, publicly perform or publicly display any Content, or otherwise transfer any Content obtained through the Service.

You agree that you will not, for any reason whatsoever, reverse engineer, decompile, disassemble, or otherwise tamper with any security components, usage rules or other protection measures applicable to the DMP or Content. You agree to abide by the rules and policies established from time to time by

Midwest Tape LLC. Such rules and policies will be applied generally in a nondiscriminatory manner to users of the DMP apps and software, and may include, for example, required or automated updates, modifications, and/or reinstallations of the apps and software and obtaining available patches to address security, interoperability, and/or performance issues. Any use of the Digital Content Titles other than Allowed Use is a violation of law.

You agree not to make any use of the Content that would infringe the copyright therein.

Violation of any of the above restrictions may result in a termination of your ability to access the Services. Hoopla reserves any and all rights or remedies that may be available in the event of your breach of these Terms.

All of the technology related to the Digital Media Platform, the name hoopla digital, and any related collateral are owned by Midwest Tape LLC and is protected by Midwest Tape LLC's Intellectual Property Rights.

The owners of Content are intended beneficiaries of this LPP Agreement and shall have the right to enforce this LPP Agreement against you.

Security

You will not violate or attempt to violate the security of hoopla Services, Software, and/or Content.

You agree that it is your responsibility to install anti-virus software and related protections against viruses, Trojan horses, worms, time bombs, cancelbots or other computer programming routines or engines that are intended to damage, destroy, or otherwise impair computer's functionality or operation which may be transferred to your computer via the Services, Software, and/or Content.

No other license

Except as state herein, no other rights or licenses are granted hereunder.

Disclaimer of Warranty and Limitation of Liability

THE DMP INCLUDING ALL APPS, SOFTWARE, CONTENT AND OTHER INFORMATION, MATERIALS AND PRODUCTS INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE SERVICE ARE PROVIDED "AS-IS" AND "AS AVAILABLE" WITHOUT WARRANTIES OF ANY KIND FROM MIDWEST TAPE LLC OR ANY OWNERS OF CONTENT. TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, MIDWEST TAPE LLC AND ALL OWNERS OF CONTENT DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER MIDWEST TAPE LLC NOR ANY OWNER OF CONTENT WARRANTS THAT THE SERVICE OR ANY APPS, SOFTWARE, CONTENT, INFORMATION, MATERIALS OR PRODUCTS INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE SERVICE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

NEITHER MIDWEST TAPE LLC NOR ANY OWNER OF CONTENT WILL BE LIABLE FOR ANY INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING FROM THE USE OF THE DMP OR FROM APPS, SOFTWARE, CONTENT, INFORMATION, MATERIALS OR PRODUCTS INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE DMP, OR FOR ANY DAMAGES IN EXCESS OF THE AMOUNT PAID FOR THE SPECIFIC ITEM OF CONTENT GIVING RISE TO THE APPLICABLE CLAIM FOR DAMAGES.

Termination of Access

Midwest Tape LLC and/or the owners of the Content may, from time to time, remove Content from the Service without notice. Midwest Tape reserves the right to modify, suspend or discontinue the hoopla Service (or any part thereof), Software, or any Content (or any part thereof) at any time with or without notice to you. Midwest Tape shall not be liable to you or any third party should we exercise such right.

Contacting Us

If there are any questions regarding this policy, you can email them to info@hoopladigital.com and we'll respond accordingly.

These Terms are effective as of May 2013.

MIDWEST TAPE'S PRIVACY POLICY

Midwest Tape, LLC and its affiliates (Midwest Tape, hoopla) provides digital content, software applications, technology services, and hosted websites for third parties. This privacy policy applies to all Midwest Tape hosted websites, applications and services (www.hoopladigital.com and its related services; collectively the "Services")

Midwest Tape is committed to protecting the privacy, accuracy, and reliability of any personal information provided and to safeguard loss, misuse, unauthorized access, disclosure, and alteration of this information. This privacy policy sets out to make you aware of how hoopla uses and/or shares any information that is gathered in the use of this website or app.

The hoopla app offers a wide variety of content. However, not all our sources may be relied upon to provide accurate, complete or current information. Some of the information may even be viewed as offensive, inaccurate, or controversial. Library Systems, library users, and any other third party users are responsible for their own use of the app and parents are responsible for their children's use of the Internet.

Midwest Tape evaluates ongoing our Privacy Policy against new technologies, business practices, and our users' needs, and may make changes to the Privacy Policy accordingly. Please check this page periodically for updates. Your continued use of the Service after posting of any changes to this Privacy Policy means that you agree to be bound by such changes.

What is "personal information"?

"Personal Information" describes information that can be associated with a specific user and used to identify that person, such as name, email address, birthday, gender, location information, etc. You may submit Personal Information when you use the hoopla Services. Other information, not personally identifiable, may be collected automatically when visiting or using the Services.

The app works in conjunction with your library system so your library card number is necessary (optional is the library card PIN) to verify that you are a patron in good standing with the library. An email address and password, submitted by you, will be used to authenticate you when you use the hoopla service.

The hoopla service records how you use our application, including by not limited to; online activity, digital content selections, reviews and ratings, and operating systems. Personal Information remains anonymous. This information is reported in aggregate (no personal identifier) to your library, content providers, and licensing agencies.

What do we use your information for?

- We use your email address and password to authenticate you with our systems.
- We use your library card number and library card PIN to authenticate you with your library's systems.
- We use a record of the materials you borrow to bill your library for usage and to pay license fees.
- We use usage data to look for ways to improve the hoopla service, by making popular features easier to find, getting rid of features that few people use, or anticipating features people may wish we had.
- We may use your email in response to a specific inquiry or complaint you may have posted to us.
- Only when instructed or approved by your library will we use your email address to send information about the hoopla service, such as the announcement of new major features or new content providers.
- In all circumstances, your information -- whether public or private -- will not be sold, exchanged, transferred, or given to any other company for any reason whatsoever, other than for the express purpose of being able to deliver the product or service.

How do we protect your information?

Your privacy is important to us. We have implemented measures to protect against the loss, misuse, and alteration of your Personal Information. All electronic communication between your web browser or mobile device and our servers is protected and encrypted via SSL (HTTPS). Your password is encrypted before it is stored in our database. We use computer safeguards such as firewalls and data encryption and physical access controls to our buildings and files. Midwest Tape uses commercially reasonable efforts to comply with this Privacy Policy but cannot guarantee error-free performance under this Policy. Midwest Tape will take prompt corrective action if it learns of any failure to comply with the Privacy Policy. Midwest Tape will not be liable for any incidental, indirect, consequential or punitive damages or for loss of profit or opportunity, loss of use or other financial loss arising out of or relating to this Privacy Policy.

Do we disclose any information to outside parties?

We do not sell, trade, or otherwise transfer to third parties your personally identifiable information. This does not include trusted third parties who assist us in operating our website, conducting our business, or servicing you, so long as those parties agree to keep this information confidential. We may also release your information when we believe release is appropriate to comply with the law, enforce our site policies, or protect ours or others rights, property, or safety. However, non-personally identifiable visitor information may be provided to other parties for marketing, advertising, or other uses.

Third party links

Occasionally, at our discretion, we may include or offer third party links on our website. These third party sites have separate and independent privacy policies. We therefore have no responsibility or liability for the content and activities of these linked sites. Nonetheless, we seek to protect the integrity of our site and welcome any feedback about these sites.

What if I share information with others while using the hoopla service?

While using the hoopla service, you may have opportunities to post reviews, rate digital content, and share digital content information with others in public forums and on social networking websites such as Facebook, and Twitter. When you share this information, it is made public but not subject to this Privacy Policy. We are not responsible for any third party's use of information you publicly display or disclose through our Service.

Online Privacy Policy Only

This online privacy policy applies only to information collected through our website and mobile applications, and not to information collected offline.

Terms and Conditions

Please also visit our Terms and Conditions section establishing the use, disclaimers, and limitations of liability governing the use of our website at <https://www.hoopladigital.com/terms>.

You're Consenting

By using our site or mobile applications, you're consenting to our online privacy policy.

Changes to our Privacy Policy

If we decide to change our privacy policy, we will update the Privacy Policy modification date below.

Contacting Us

If there are any questions regarding this policy, you can email them to info@hoopladigital.com and we'll respond accordingly.

These Terms are effective as of June 2013

Appendix E

Sample Invoice and Billing Statement Formats

Sample Invoice



P.O. Box 820 Holland, OH 43528

SAN DIEGO COUNTY LIBRARY
Digital account
5560 OVERLAND AVE
SAN DIEGO CA 92123

Invoice # 40000042
Customer # 2000012241
Payment Terms: 30 Days Net

Week Ending 12/07/2012

Description	Quantity	Unit Price	Extended Amount
Digital Audiobook \$0.99	2	0.99	1.98
Digital Audiobook \$2.99	2	2.99	5.98
Digital Audiobook Subtotal			7.96
Digital Movie \$0.99	2	0.99	1.98
Digital Movie Subtotal			1.98
Digital Music \$1.49	2	1.49	2.98
Digital Music Subtotal			2.98
Amount Due :			12.92
Taxes :			0.00
Less Credits :			0.00
Total Due in USD :			12.92

To view and/or download transactional data for the above charges, please login to your hoopla account at www.hoopladigital.com

Remit to:

Midwest Tape
P.O. Box 820
Holland, OH 43528

Federal ID# 37-1499686

Sample Billing Statement



P.O. BOX 820 Holland, OH 43528

STATEMENT

NEW YORK PUBLIC LIBRARY
NEW YORK PUBLIC LIBRARY GIFT SHOP
SARA ABRAHAM
STEPHEN A SCHWARZMAN BLDG
11 WEST 40TH STREET, ROOM 67
NEW YORK NY 10018

Date: 11/19/2012
Customer #2000011900

Open item list as of 11/19/2012

Document Number	Document Date	Current	30+ Days	60+ Days	90+ Days	Balance
90000371	10/12/2012	0.00	598.50	0.00	0.00	598.50
90000412	10/26/2012	-4.99	0.00	0.00	0.00	-4.99
90000413	10/26/2012	-24.95	0.00	0.00	0.00	-24.95
90000415	11/02/2012	99.80	0.00	0.00	0.00	99.80
100000074	11/06/2012	-8,963.95	0.00	0.00	0.00	-8,963.95
Totals		-8,894.09	598.50	0.00	0.00	-8,295.59

To view and/or download transactional data for the above charges, please login to your hoopla portal account at www.hoopladigital.com

Remit to:

Midwest Tape
P.O. Box 820
Holland, OH 43537

Federal ID# 37-1499686

Appendix G

Advance Schedule

Population of Service Area	Advance
> 1,000,000	\$ 100,000
500,000 - 999,999	\$ 75,000
300,000 - 499,999	\$ 50,000
200,000 - 299,999	\$ 35,000
100,000 - 199,999	\$ 25,000
50,000 - 99,999	\$ 12,000
1 - 49,999	\$ 6,000

**SOLE SOURCE CHECKLIST
DIGITAL MEDIA PLATFORM (HOOPLA) SERVICES
FOR PUBLIC LIBRARY**

Check (✓)	JUSTIFICATION FOR SOLE SOURCE CONTRACTS
	<i>Identify applicable justification and provide documentation for each checked item.</i>
✓	<p>➤ Only one bona fide source for the service exists; performance and price competition are not available.</p> <p>(Sole Source Letter from Vendor)</p>
	➤ Quick action is required (emergency situation).
	➤ Proposals have been solicited but no satisfactory proposals were received.
	➤ Additional services are needed to complete an ongoing task and it would be prohibitively costly in time and money to seek a new service provider.
	➤ Maintenance service agreements exist on equipment which must be serviced by the authorized manufacturer's service representatives.
	➤ It is more cost-effective to obtain services by exercising an option under an existing contract.
✓	<p>➤ It is in the best interest of the County, e.g., administrative cost savings, excessive learning curve for a new service provider, etc.</p> <p>(Advance payment waived per Section 6.1 of the Agreement)</p>
	➤ Other reason. Please explain:
<div style="display: flex; justify-content: space-between;"> <div>_____ Deputy Chief Executive Officer, CEO</div> <div>_____ Date</div> </div>	



6950 Hall Street
Holland, Ohio 43528

June 17, 2013

Re: Sole Source Statement

To whom it may concern:

Midwest Tape, (MWT), is a full service media distributor, working exclusively with public libraries since 1989. We customize our products and services to meet the unique needs of individual libraries as well as libraries as a whole.

Midwest Tape is currently pioneering the newest technology for public libraries; our library branded digital platform for mobile apps, "hoopla". As a long time service provider and distributor to public libraries, MWT is taking the process of viewing physical goods digitally to a whole new level. hoopla will provide libraries with a powerful new content delivery model that enables patrons to instantly borrow videos, full albums of music, and audiobooks. The interfaces are intuitive and easy to use. Like all services provided by MWT, we remain committed to being customer centric to our libraries.

We are the sole-source vendor for libraries when it comes to library branded digital platforms requiring NO setup fees or annual maintenance fees, and there are no costs associated with building an opening day collection. The only money spent with MWT will be applied 100% to patrons use.

All titles on hoopla are available to every patron with simultaneous title use; meaning no more holds, true patron-driven acquisition, better first user experience, and less dissatisfaction. That also means no more purchasing or leasing individual titles. Patrons have access to *all the titles, all the time* on the library branded hoopla app. However, libraries maintain full authority by utilizing any of the title restriction features which allow opting out of certain content by format, price point or a particular title.

Libraries will only be charged for what is consumed. This is a departure from the physical lending model and other digital platforms. Only when the patron selects a title to borrow does the library realize a per circulation charge from the platform. Currently circulation charges range from \$0.99 to \$2.99.

Digital video offerings are robust due to our unique partnership and long standing relationships with studios over the last 30 years.

Digital music offerings are matchless to any other source due to the fact that hoopla offers circulation of the full album of the artist work, not just one song at a time.

Pure lending model; videos circulate for 72 hours (3 days) from the time the patron hits borrow likewise music circulates for 7 days and audiobooks circulate for 3 weeks. Similar to physical circulation at a library, a patron cannot keep any item in fact, hoopla will auto return each item upon its expiration date.

hoopla offers multiple administrative tools, including detailed reports on usage and trends as well as the ability to export the results to spreadsheet. There are multiple options provided to manage your library budget, including item limits and hard budgetary stops.

MWT's innovation has always been inspired through years of industry knowledge and libraries' vision. We see this as a true collaborative effort between your library and MWT. The hoopla platform is purposefully co-branded to open with your library's logo and RSS feed to help reinforce that the local library is why patrons are able to access this great content. hoopla enables libraries to further communicate this message through enabling collection development tools which allow you to customize collections for your patrons.

We look forward to the opportunity to continue the symbiotic relationship we have with libraries in this venture to create demand and increase library card registration. We stand by our offering, so at any time, if your library believes hoopla is not of value, we only require a 60 day notification.

hoopla is a great value with very low risk and no financial speculation and we are excited to embark on this new frontier with you.

Please call our Customer Service Department at (800) 875-2785 for more information.

Sincerely,

Jeff Jankowski
Vice President